

POSTGRADUATE STUDY COURSE: DEDUCTION OF EXPENSES FROM TAXABLE INCOME

The Commissioner for Inland Revenue has addressed the following letter (R.18/343) to the Secretary of the Medical Association of South Africa under date 19 December 1957:

'INCOME TAX: MEDICAL PRACTITIONERS: DEDUCTION OF EXPENSES IN RESPECT OF POSTGRADUATE STUDY COURSES

'1.0. I set out hereunder particulars of the manner in which it is intended that the provisions of paragraph (s) of sub-section (2) of section *eleven* of the Income Tax Act, 1941, should operate and be applied in relation to medical practitioners. The undermentioned acts which are to be performed by your Association through its local branches in connection with the operation of the paragraph were agreed upon in principle at discussions between representatives of your Association and this Department before the paragraph was inserted in the Act in its present form by section *six* of the Income Tax Act, 1957 (Act No. 61 of 1957), in substitution for the paragraph which was originally introduced into the Act by section *six* of the Income Tax Act, 1956 (Act No. 55 of 1956).

Paragraph (s) of sub-section (2) of section eleven of the Income Tax Act

'2.0. The paragraph, which came into operation with effect from the year of assessment ended 30 June 1957, provides for the deduction in the determination of the taxable income of any dentist or medical practitioner of an allowance in the following terms—

'(s) notwithstanding the provisions of paragraphs (a) and (b) of section *twelve*, so much as the Commissioner may allow of any expenditure incurred by any dentist or medical practitioner in respect of whom the Dental Association of South Africa or the Medical Association of South Africa, as the case may be, certifies in such form as the Commissioner may prescribe that he—

(i) has practised his profession for not less than three years; and

(ii) has incurred such expenditure during the year of assessment in respect of the attendance by him of any postgraduate study course approved by such Association, to improve his

qualifications for the carrying on of his profession in the Union.'

Amount of deduction at discretion of Commissioner

'3.0. It will be seen from the wording of the paragraph that the amount allowed to be deducted is not necessarily the expenditure actually incurred by the taxpayer in respect of the attendance by him of the post-graduate study course *but so much of such expenditure as the Commissioner for Inland Revenue may allow.*

The discretionary power vested in the Commissioner has not been made subject to objection and appeal and the Commissioner's decision as to the amount of the deduction to be allowed in any case will, therefore, be final and conclusive. In paragraphs 5.0 to 5.5. an endeavour has been made to indicate roughly the basis on which this Department will in the general run of cases determine the amount of the deduction.

Certificates to be issued by Medical Association

'4.0. In terms of the law, the deduction can in no circumstances be allowed unless, in the case of a medical practitioner, the Medical Association of South Africa certifies as to the matters in regard to which it is by sub-paragraphs (i) and (ii) of the aforesaid paragraph (s) required to certify.

'4.1. It is not the intention at present to prescribe a special form of certificate and your Association will be free to devise its own form of certificate subject to the following conditions:

(1) Every certificate must be in writing and must be signed by the President of the local branch of the Association by which the certificate is being issued.

(2) Every certificate must certify that—

(a) the taxpayer concerned has practised his profession for at least three years;

(b) the expenditure was incurred by the taxpayer during the year of assessment indicated in the certificate; and

(c) the expenditure was incurred by the taxpayer in respect of the attendance by him of a postgraduate study course approved by the Association, to improve his qualifications for carrying on his profession in the Union.

(3) Every certificate must disclose—

(a) the name of the local branch by which it has been issued;

(b) the full name and address of the medical practitioner to whom it relates;

(c) the nature of the course and the place where it was attended;

(d) the exact period, with commencing and closing dates, of the taxpayer's attendance of the course;

(e) in the case of an overseas course, in addition to the dates required under (d) above, the dates of the taxpayer's departure from and arrival back in the Union;

(f) the amounts and particulars of expenditure (*including travelling expenses but excluding living expenses*) incurred by the taxpayer during the year of assessment in respect of the attendance by him of the study course. The expenditure must have been incurred in respect of the taxpayer personally and not in respect of any other person such as, for example, a wife or child;

(g) particulars of any appointment or post held by the taxpayer whilst attending the course and particulars of any emoluments or honoraria derived by him;

(h) whether or not the taxpayer was accompanied by his wife and/or children.

'4.2. The certificates will be issued by the local branches of your Association to members and non-members alike. A local branch will issue certificates only to medical practitioners who, in the case of members of the Association, are members of that branch or, in the case of non-members, reside within the area of jurisdiction of that branch.

'4.3. The understanding is that your Association will satisfy itself in every case, either by obtaining written confirmation from the person or institution conducting the course or in such other manner as the Association may deem adequate, that the taxpayer attended the course for the period stated in the certificate and that the course complies with the requirements set out in paragraph 4.1 (2) (c) above. In this connection it should be noted that medical congresses are not regarded as postgraduate study courses and that paragraph (s) of section 11 (2) of the Act does, therefore, not apply to expenditure incurred in respect of the attendance of congresses.

'4.4. It will be appreciated if your Association will take steps to ensure that upon the issue of any certificate a copy of the certificate will be posted to the departmental Receiver of Revenue in the town in which the local branch issuing the certificate is situated.

Basis on which amount of deduction will normally be determined

'5.0. Generally speaking, the intention is to allow only special or extraordinary expenses incurred by a taxpayer in respect of the attendance by him of any postgraduate study course and, as indicated in paragraph 4.1 (3) (f) above, to exclude moreover from the allowance any expenses incurred by the taxpayer in respect of his wife and/or family.

'5.1. A reasonable apportionment will be made of expenditure incurred partly in respect of the attendance of the study course and partly for other purposes. For example, where it appears that the main purpose of an overseas trip was a holiday and that the study course was a side-issue, only a portion, if any, of the travelling expenses between the Union and the foreign country will be allowed as a deduction. It is impossible to lay down hard and fast rules to be followed in the apportionment of expenditure and each case will be treated on its merits.

'5.2. It has been agreed that the amount to be included in the deduction in respect of living expenses will be determined on the basis of a flat rate of £5 per day in respect of Great Britain and the Continent of Europe and £7 10s. per day in respect of America and Canada for the period of the taxpayer's attendance of the course. A similar allowance at the rate of £2 5s. per day will be granted where the course was attended in the Union at a centre other than that in which the taxpayer ordinarily resides or carries on his profession. Depending on the particular circumstances of his case, a taxpayer will be allowed to deduct from his income the full amount calculated in accordance with the above rates or only a portion or no portion at all of such amount. Circumstances which can be expected to affect the amount of the deduction in respect of living expenses overseas include the following:

(a) the length of the taxpayer's stay in the foreign country;

(b) the holding by the taxpayer of any post or appointment for reward in the foreign country;

(c) the fact that the taxpayer does (or does not) maintain a home or support a wife and/or family in the Union while he attends the course.

'5.3. It will not be necessary for any taxpayer to submit with his claim for the deduction particulars of his living expenses unless he claims that the actual living expenses incurred by him in respect of the attendance of the course exceeded an amount calculated in accordance with the above rates.

'5.4. The deduction under section 11 (2) (s) of the Income Tax Act is allowable only in respect of the year of assessment during which the expenditure in question is incurred and provided the taxpayer derives income from Union sources during that year of assessment.

'5.5. The deduction will not be allowed in respect of interest payable by a taxpayer on moneys borrowed by him to meet the expenses of a post-graduate study course.

'5.6. Any examination connected with a postgraduate study course is regarded as forming part of that course, and any expenditure incurred by a taxpayer in respect of the attendance by him of such an examination will be dealt with in accordance with the foregoing principles as expenditure incurred, in respect of the attendance of a post-graduate study course.'